

**United States Department of Labor
Employees' Compensation Appeals Board**

G.C., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Chicago, IL, Employer**

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**Docket No. 17-0675
Issued: June 15, 2017**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 3, 2017 appellant filed a timely appeal from a November 14, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish a back injury causally related to a January 29, 2016 employment incident.

FACTUAL HISTORY

On February 10, 2016 appellant, then a 50-year-old sales and service distribution associate, filed a traumatic injury claim (Form CA-1) alleging that on January 29, 2016, while performing heavy lifting over time that day, she experienced back spasms. She stopped work on February 1, 2016 and returned on February 8, 2016. In an undated partially legible statement

¹ 5 U.S.C. § 8101 *et seq.*

accompanying the claim, appellant indicated that she injured her back at work and had difficulty moving around because of pain.

Appellant was treated by Dr. Catherine S. Park, a Board-certified internist, on February 2, 2016, who noted that appellant was completely incapacitated from February 1 to 5, 2016 and could return to work regular duty on February 8, 2016.

By letter dated October 4, 2016, OWCP advised appellant that her claim originally appeared to be for a minor injury which resulted in minimal or no time loss from work. It indicated that appellant's claim was administratively handled to allow limited medical payments, but the merits of the claim were not formally adjudicated. OWCP noted that appellant had requested that the claim be reopened and advised that it would formally adjudicate the claim. It requested that appellant submit additional information, including a comprehensive medical report from her treating physician, providing a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to her claimed injury.

In a statement dated October 10, 2016, appellant indicated that on January 29, 2016 she sorted mail that weighed between 13 ounces and 70 pounds, she scanned mail using different machines, and she sorted mail by carriers' routes. She reported closing a piece of equipment that was full and felt a pull in her back. Appellant went on a lunch break and upon getting up from the breakroom table she was stiff and felt pain. The pain persisted when getting out of the car and when sleeping. She asserted that she sustained a traumatic injury and sought medical treatment.

Appellant submitted an x-ray of her lumbar spine dated February 8, 2016 which revealed mild degenerative changes.

On October 17, 2016 Dr. Park noted treating appellant on that date and on February 2, 2016 for lower back pain. She related that on February 2, 2016 appellant presented with a three week history of low back pain radiating to her right side. Appellant had stiffness at work after sitting for a long time. She reported doing heavy lifting for years at the employing establishment. Dr. Park noted minimal discomfort of the right lower back and diagnosed back spasm. She held appellant off work for the week. Dr. Park advised that on the current visit, October 17, 2016, she treated appellant for low back pain. Appellant related that on January 29, 2016 she had been performing her usual work duties, attempted to close a door on a container, and felt low back pain around her spine. A coworker helped her close the container and she then went to sit down. Appellant had stiffness and recurrent pain upon standing. She reported that day that the back pain was not as intense, but she still had tightness and stiffness daily with pain twice a week. Dr. Park noted mild degenerative changes of the lumbar spine on x-ray. Appellant's back was nontender with some pain while changing positions and with ranges of motion. Dr. Park diagnosed chronic midline low back pain without sciatica. She recommended physical therapy and oral medications. Dr. Park indicated that appellant was excused from work from February 1 to 5, 2016 due to complete incapacitating back pain. She opined that, based on appellant's description of her work duties (which involved about six hours of standing a day and repetitive turning and twisting while handling post that weighed up to 70 pounds), it was "likely that her work responsibilities caused a back strain that can be cumulative and more symptomatic after just a simple maneuver like reaching up as was described during the work incident on January 29, 2016."

On November 2, 2016 Dr. Park noted that appellant sustained a work-related back sprain on January 29, 2016.

In a November 14, 2016 decision, OWCP denied appellant's claim for compensation because the medical evidence of record was insufficient to establish a medical condition causally related to the accepted work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.³

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

ANALYSIS

It is undisputed that on January 29, 2016 appellant was sorting and scanning mail of varying weight as part of her employment duties as a sales and service distribution associate. However, the Board finds that appellant failed to submit sufficient medical evidence to establish that her diagnosed medical condition is causally related to the January 29, 2016 employment incident.

Appellant submitted an October 17, 2016 report from Dr. Park who initially treated her on February 2, 2016, for a three-week history of low back pain radiating to her right side. She reported that on January 29, 2016 she was performing her usual work duties and attempted to close a door on a container resulting in lower back pain around the spine, stiffness, and recurring pain. Dr. Park diagnosed chronic midline low back pain without sciatica. She opined that, based

² Gary J. Watling, 52 ECAB 357 (2001).

³ T.H., 59 ECAB 388 (2008).

⁴ I.J., 59 ECAB 408 (2008); Victor J. Woodhams, 41 ECAB 345 (1989).

on appellant's description of her work duties, it was likely that her work responsibilities caused a back strain that can be cumulative and more symptomatic after just a simple maneuver like reaching up as was described during the work incident on January 29, 2016. However, Dr. Park appears to merely be repeating the history of injury as reported by appellant without providing her own opinion regarding how or why appellant's condition was work related.⁵ To the extent that Dr. Park is providing her own opinion, she failed to provide a rationalized opinion regarding the causal relationship between appellant's back condition and the accepted work incident.⁶ Therefore, this report is insufficient to meet appellant's burden of proof. Additionally, Dr. Park's report provides only speculative support for causal relationship as she qualifies her support by noting that appellant's employment "likely" caused her diagnosed condition. However, she provided no medical reasoning to support her opinion on causal relationship and there it is insufficient to meet appellant's burden of proof.⁷

On November 2, 2016 Dr. Park indicated that appellant sustained a work injury on January 29, 2016 which she diagnosed as a back sprain. The Board finds that although Dr. Park supported causal relationship, she again did not provide medical rationale explaining the basis of her conclusory opinion regarding the causal relationship between appellant's back condition and the accepted work incident.⁸ For example, Dr. Park did not explain the process by which standing at work and repetitive turning and twisting while handling mail on January 29, 2016 would cause or aggravate the diagnosed condition. Therefore, this report is insufficient to meet appellant's burden of proof.

Dr. Park's February 2, 2016 note is insufficient to establish the claim as she did not provide a history of injury⁹ or specifically address whether appellant's employment activities had caused or aggravated a diagnosed medical condition.¹⁰

The remainder of the medical evidence, including diagnostic testing, is of limited probative value as it fails to provide a physician's opinion on the causal relationship between appellant's work incident and his diagnosed back condition.¹¹ For this reason, this evidence is insufficient to meet her burden of proof.

⁵ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

⁶ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁷ Medical opinions that are speculative or equivocal in character are of diminished probative value. *D.D.*, 57 ECAB 734 (2006).

⁸ See *T.M.*, Docket No. 08-975 (issued February 6, 2009) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

⁹ *Frank Luis Rembisz*, *supra* note 5.

¹⁰ *A.D.*, 58 ECAB 149 (2006); Docket No. 06-1183 (issued November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

¹¹ See *S.E.*, Docket No. 08-2214 (issued May 6, 2009) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated, or aggravated by her employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.¹² Appellant failed to submit such evidence and therefore she has not met her burden of proof.

On appeal appellant asserts that she submitted sufficient medical evidence from Dr. Park to establish that she sustained a back injury causally related to the accepted work incident on January 29, 2016. For the reasons outlined, appellant has not met her burden of proof as to causal relationship

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her back injury was causally related to the accepted January 29, 2016 employment incident.

¹² See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ORDER

IT IS HEREBY ORDERED THAT the November 14, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 15, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board